

1 THE HONORABLE JOHN C. COUGHENOUR  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

v.

12 DONALD C. SCHOLOFF,

13 Defendant.

CASE NO. CR20-0153-JCC

14 ORDER

15 This matter comes before the Court on the parties' joint motion to continue trial (Dkt. No.  
16 13.) For the reasons described below, the motion is GRANTED.

17 Trial in this matter is currently scheduled for April 5, 2021. (Dkt. No. 9). The parties  
18 move to continue trial to September 7, 2021 to provide defense counsel adequate time to prepare  
19 for trial and to ensure a trial does not result in a miscarriage of justice, in light of the ongoing  
20 impact of the COVID-10 pandemic. (Dkt. No. 13 at 3–5.) Specifically, the pandemic has made it  
21 difficult for the Court to obtain an adequate spectrum of jurors to represent a fair cross section of  
22 the community, and public health guidance has impacted the ability of jurors, witnesses, counsel,  
23 and Court staff to be present in the courtroom. (*See* W.D. Wash. General Orders 01-20, 02-20,  
24 07-20, 08-20, 11-20, 13-20, 15-20, 18-20, 04-21 each of which the Court incorporates by  
25 reference.) Although the availability of a vaccine makes it possible that the Court may be able to  
26 resume limited in-person criminal trials in May 2021, the Court will continue to be subject to

1 public health measures, such as limits on the number of people in the courthouse and  
2 courtrooms, which are likely to limit the Court's ability to try cases as efficiently as it would  
3 absent a pandemic. (*See* W.D. Wash. General Order 04-21 at 2.)

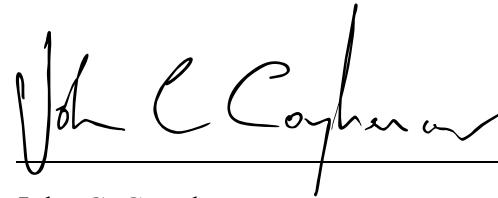
4 Accordingly, the Court FINDS that the ends of justice served by granting a continuance  
5 outweigh the best interests of Mr. Scholoff and the public to a speedy trial. *See* 18 U.S.C.  
6 § 3161(h)(7)(A). The reasons for this finding are:

- 7 1. Taking into account the exercise of due diligence, the failure to grant a continuance  
8 would deny counsel for Mr. Scholoff the reasonable time necessary for effective  
9 preparation, *see* 18 U.S.C. § 3161(h)(7)(B)(iv), and would therefore result in a  
10 miscarriage of justice, *see* 18 U.S.C. § 3161(h)(7)(B)(i).
- 11 2. The period of delay is necessary for Mr. Scholoff and his counsel to adequately  
12 prepare for trial, investigate the matter, gather evidence material to the defense, and  
13 consider possible defenses and pretrial motions.
- 14 3. The COVID-19 pandemic has made it difficult for the Court to obtain an adequate  
15 spectrum of jurors to represent a fair cross section of the community, which would  
16 likely make proceeding with trial on April 5, 2021 impossible or would result in a  
17 miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).
- 18 4. Public health guidance has impacted the ability of jurors, witnesses, counsel, and  
19 Court staff to be present in the courtroom. Therefore, proceeding with trial on April 5,  
20 2021 would likely be impossible or would result in a miscarriage of justice. *See* 18  
21 U.S.C. § 3161(h)(7)(B)(i).

22 For the foregoing reasons, the Court ORDERS:

- 23 1. The April 5, 2021 jury trial is CONTINUED until September 7, 2021 at 9:30 a.m.
- 24 2. The pretrial motion deadline is continued to August 5, 2021.
- 25 3. The period from the date of this order to September 7, 2021 is an excludable time  
26 period under 18 U.S.C. § 3161(h)(7)(A) for the reasons stated above.

DATED this 2nd day of April 2021.



John C. Coughenour  
UNITED STATES DISTRICT JUDGE